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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/637,202	08/08/2003	Dennis L. Hogan	C4-1199	4091
26799	7590	04/17/2006		
IP LEGAL DEPARTMENT TYCO FIRE & SECURITY SERVICES ONE TOWN CENTER ROAD BOCA RATON, FL 33486			EXAMINER LA, ANH V	
			ART UNIT 2612	PAPER NUMBER

DATE MAILED: 04/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/637,202

Applicant(s)

HOGAN, DENNIS L.

Examiner

Anh V. La

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2006.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☒ Claim(s) 32-38 is/are allowed.
6) ☒ Claim(s) 1-13, 21-31 and 39-49 is/are rejected.
7) ☒ Claim(s) 14-20 is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-13, 21-31, 39-46, and 48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Niel.

Regarding claim 1, Niel discloses a security system comprising a security tag 4 to attach to an item, the tag having an outer wall 40, 16, and a detaching device (column 4, lines 40-60) having at least one driver rod 45, the driver rod penetrating to penetrate the outer wall (at 43) at approximately a 90 degree angle relative to the outer wall (see figure 1) to detach the tag from the item. Niel does not disclose the driver rod penetrating to penetrate the outer wall at approximately a 45 degree angle relative to the outer wall. However, it would have been obvious to have the driver rod penetrating to penetrate the outer wall (at 43) at approximately a 45 degree angle relative to the outer wall since it is not inventive to discover the optimum or workable ranges by routine experimentation.

Regarding claims 21, 42, Niel discloses a security tag comprising a tack body 13, a security tag 4 including an outer wall 40, 16, and a clamp 50 disposed within the tag, the clamp to receive force from at least one driver rod (col. 4, lines 40-60) at approximately a 90 degree angle relative to the outer wall (at 43) sufficient to bend the

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clamp beyond a yield point and release the tack body (see figure 1). Niel does not disclose the clamp to receive force from at least one driver rod at approximately a 45 degree angle relative to the outer wall. However, it would have been obvious to have the clamp to receive force from at least one driver rod at approximately a 45 degree angle relative to the outer wall since it is not inventive to discover the optimum or workable ranges by routine experimentation.

Regarding claim 39, Niel discloses a security system comprising a security tag 4 comprising a tack body 13, the security tag 4 including an outer wall 40, 16, and a clamp 50, the clamp to receive force at approximately a 90 degree angle relative to the outer wall (at 43) sufficient to bend the clamp beyond a yield point and release the tack body, a monitoring system, and an alert system to communicate an alert system (col. 1, lines 1-15, col. 2, lines 10-45). Niel does not disclose the clamp to receive force at approximately a 45 degree angle relative to the outer wall. However, it would have been obvious to have the clamp to receive force at approximately a 45 degree angle relative to the outer wall since it is not inventive to discover the optimum or workable ranges by routine experimentation.

Regarding claim 2, Niel discloses two driver rods (figure 1).

Regarding claim 3, Niel discloses a tack body 13, a security tag 4, a clamp 50, wherein the rod bends the clamp beyond a yield point to release the tack body.

Regarding claims 4, 22, Niel discloses a concave surface 8 having a first angle and a second angle (fig. 1).

Regarding claims 5-10, 23-28, Niel discloses all the claimed subject matter as set forth above in the rejection of claim 4, but does not disclose the first angle comprising 146-180 degrees (claims 5, 23) or 164 degrees (claims 6, 24), the second angle comprising 90-145 degrees (claims 7, 25) or 105 degrees (claims 8, 26), the force of 5 to 15 pounds (claims 9, 27), and the thickness of wall being 0.01 to 0.024 inches (claims 10, 28). However, it would have been obvious to have the first angle comprising 146-180 degrees or 164 degrees, the second angle comprising 90-145 degrees or 105 degrees, the force of 5 to 15 pounds, and the thickness of wall being 0.01 to 0.024 inches since it is not inventive to discover the optimum or workable ranges by routine experimentation.

Regarding claim 11, Niel discloses the wall having at least one aperture 43.

Regarding claims 12, 30, Niel discloses the tag having an upper housing and a lower housing, the lower housing having a protrusion, the wall having two access points (at 43) to allow penetration by the drivers rods to bend the clamp (fig.1).

Regarding claims 13, 31, Niel discloses the clamp comprising a center portion and two end portions, the housing having an abutment (fig. 1).

Regarding claim 29, Niel discloses an outer wall having two apertures 43.

Regarding claim 40, Niel discloses a security system comprising a security tag 4 to attach to an item, the tag having an outer wall 40, 16, and a detaching device (column 4, lines 40-60) having at least one driver rod, the driver rod penetrating the outer wall (at 43) to detach the tag from the item.

Regarding claim 41, Niel discloses a sensor emitting signals at a certain frequency (col. 1, lines 15-50, col. 2, lines 10-45).

Regarding claim 43, Niel discloses the clamp 50 having a first position and a second position (fig. 1).

Regarding claims 44, 45, Niel discloses a outer wall 8 with apertures 43 (fig. 1, col. 4, lines 40-60).

Regarding claim 46, Niel discloses a detaching device comprising at least one driver rod and a driver rod activator to move the rod through an outer wall 8, 40, of a security tag 4 (at 43) at approximately a 90 degree angle relative to the outer wall to bend a clamp 50 to a release point and detach the tag from an item 2 (fig. 1, col. 4, lines 40-60). Niel does not disclose the driver rod penetrating the outer wall at approximately a 45 degree angle relative to the outer wall. However, it would have been obvious to have the driver rod penetrating the outer wall at approximately a 45 degree angle relative to the outer wall since it is not inventive to discover the optimum or workable ranges by routine experimentation.

Regarding claim 48, Niel discloses manual force to move the driver rod.

3. Claims 47 and 49 are rejected under 35 U.S.C. 103(a) as being unpatentable over Niel in view of Nowaczyk.

Regarding claims 47 and 49, Niel discloses all the claimed subject matter as set forth above in the rejection of claim 46, but does not disclose a motor. Nowaczyk teaches the use of a motor 102 (col. 5, lines 1-15). It would have been obvious at the

time the invention was made to a person having ordinary skill in the art to include a motor to the device of Niel as taught by Nowaczyk for the purpose of moving the driver rod.

4. Claims 14-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. Claims 32-38 are allowed.

Answers to Remarks

6. Applicant's arguments filed February 06, 2006 have been fully considered.

Applicant's arguments with respect to claims 1-13, 21-31, 39-49 have been considered but are moot in view of the new ground(s) of rejection.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anh V. La whose telephone number is (571) 272-2970. The examiner can normally be reached on Mon-Fri from 9:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik can be reached on (571) 272-3068. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



ANH V. LA
PRIMARY EXAMINER

Anh V La
Primary Examiner
Art Unit 2612

AI
April 14, 2006